

(2) All population statistics and definitions used in qualifying for this exemption shall be the most recent available from the U.S. Department of Commerce, Bureau of the Census. In no event shall any statistics resulting from censuses prior to 1980 be used. The Census Bureau has defined some incorporated places of 2,500 inhabitants or more as "extended cities." Such cities consist of an urban part and rural part.

(3) If the cable operator's franchise area includes a rural part of an extended city, but includes no other territory described in this paragraph, an exemption shall apply.

(j) The provisions of paragraph (h) of this section will not apply to ITFS excess capacity leased directly or indirectly to cable operators or affiliates to provide locally-produced programming to cable headends. Locally-produced programming is programming produced in or near the cable operator's franchise area and not broadcast on a television station available within that franchise area. A cable operator or affiliate will be permitted to lease ITFS excess capacity equivalent to one MDS channel within 32 km (20 miles) of the cable television franchise area or service area for this purpose, and, within 32 km (20 miles) of the cable television franchise area or service area, no more ITFS excess capacity than the equivalent of one MDS channel may be used by a cable television company or affiliate pursuant to this paragraph. The licensee for a cable operator providing local programming pursuant to a lease must include in a notice filed with the Mass Media Bureau a cover letter explicitly identifying its lessee as a local cable operator or affiliate and stating that the lease was executed to facilitate the provision of local programming. The first lease notification for an MDS or ITFS channel in an area filed with the Commission will be entitled to the exemption. The limitations on the equivalent of one MDS channel per party and per area include any cable/ITFS operations grandfathered pursuant to paragraph (k) of this section or any cable/MDS operations grandfathered pursuant to §21.912(f) of this chapter. Local programming service pursuant to a lease must be provided within one year of the date of the

lease or one year of the grant of the licensee's application for the leased channel(s), whichever is later.

(k) Lease arrangements between cable and ITFS entities for which a lease or a firm agreement was signed prior to February 8, 1990, will not be subject to the prohibitions of paragraph (h) of this section. Leases between cable television entities and ITFS entities executed on February 8, 1990, or thereafter, are invalid.

[28 FR 13731, Dec. 14, 1963, as amended at 33 FR 15424, Oct. 17, 1968; 48 FR 33901, July 26, 1983; 49 FR 27151, July 2, 1984; 49 FR 32596, Aug. 15, 1984; 50 FR 26760, June 28, 1985; 51 FR 9800, Mar. 21, 1986; 55 FR 46013, Oct. 31, 1990; 56 FR 57600, Nov. 13, 1991; 56 FR 57819, Nov. 14, 1991; 56 FR 65191, Dec. 16, 1991; 58 FR 34378, June 25, 1993; 58 FR 44951, Aug. 25, 1993; 59 FR 35636, July 13, 1994]

§74.932 Eligibility and licensing requirements.

(a) With certain limited exceptions set forth in §§74.990 through 74.992 of this part, a license for an instructional television fixed station will be issued only to an accredited institution or to a governmental organization engaged in the formal education of enrolled students or to a nonprofit organization whose purposes are educational and include providing educational and instructional television material to such accredited institutions and governmental organizations, and which is otherwise qualified under the statutory provisions of the Communications Act of 1934, as amended.

(1) Only local applicants can file applications and be considered for licenses during the local priority period, which extends for one year from the effective date of these rules.

(i) During this local priority period, the existing of any outstanding application for ITFS channels by a nonlocal applicant will not prevent the filing and/or grant of an application by a local entity for those same channels.

(2) A publicly supported educational institution must be accredited by the appropriate state department of education.

(3) A privately controlled educational institution must be accredited by the appropriate state department of education or the recognized regional and national accrediting organizations.

(4) Those applicant organizations whose eligibility is established by service to accredited institutional or governmental organizations must submit documentation from proposed receive sites demonstrating they will receive and use the applicant's formal educational programming. In place of this documentation, a state educational television (ETV) commission may demonstrate that the public schools it proposes to serve are required to use its proposed formal educational programming.

(5) Nonlocal applicants, in addition to submitting letters from proposed receive sites, must demonstrate the establishment of a local program committee in each community where they apply.

(b) No numerical limit is placed on the number of stations which may be licensed to a single licensee. However, individual licensees will be governed by the limitations of §§ 74.902 and 74.990(d) of this part as to the number of channels which may be used. A single license may be issued for more than one transmitter if they are to be located at a common site and operated by the same licensee. Applicants are expected to accomplish the proposed operation by the use of the smallest number of channels required to provide the needed service.

(c) An application for a new instructional television fixed station or for changes in the facilities of an existing station shall specify the location of the transmitter, all proposed receiving installations, response transmitters, and any relay transmitters which will be under the control of or will be equipped for reception by the applicant. If reception is also intended at unspecified locations, i.e., if power is deliberately radiated to locations or areas so that voluntary reception will be possible, the applications shall include a complete statement as to the purpose of such additional reception.

(d) In case of permanent discontinuance of operation of a station licensed under this subpart, authority to operate is forfeited and the licensee shall forward the station license to the Commission for cancellation. For the purposes of this section, a station which is not operated for a period of one year is

considered to have been permanently discontinued. If use of a channel(s) is discontinued, authority to operate on such channel(s) is forfeited and an application for modification shall be filed to delete such channel(s).

(e) No receive site more than 35 miles from the transmitter site shall be used to establish basic eligibility.

NOTE 1: A "local" licensee (or applicant) is an institution or organization that is physically located in the community, or metropolitan area, where service is proposed. For a college or university, this would include any area where it has a campus. An educational organization will generally be regarded as "local" if the address of the organization's headquarters is located within the area where the facility is sought. An entity created by a state or local government for the purpose of serving formal educational needs will be considered "local" throughout the area within the government's jurisdiction over which its authority is intended to extend. An educational entity located within a state and created by affiliated educational institutions within that state, including hospitals, will be considered "local" in those areas where the member institutions are located.

NOTE 2: Documentation from proposed receive sites which are to establish the eligibility of an entity not serving its own enrolled students for credit should be in letter form, written and signed by an administrator or authority who is responsible for the receive site's curriculum planning. The administrator must indicate that the applicant's program offerings have been viewed and that such programming will be incorporated in the site's curriculum. The letter should discuss the types of programming and hours per week of formal and informal programming expected to be used and the site's involvement in the planning, scheduling and production of programming. If other levels of authority must be obtained before a firm commitment to utilize the service can be made, the nature and extent of such additional authorization(s) must be provided.

NOTE 3: Letters submitted on behalf of a nonlocal entity must confirm that a member of the receive site's staff will serve on the local program committee and demonstrate a recognition of the composition and power of the committee. The letter should show that the staff member will aid in the selection, scheduling and production of the programming received over the system.

[28 FR 13731, Dec. 14, 1963, as amended at 36 FR 8873, May 14, 1971; 49 FR 32596, Aug. 15, 1984; 50 FR 26760, June 28, 1985; 51 FR 9800, Mar. 21, 1986; 56 FR 57819, Nov. 14, 1991; 58 FR 44951, Aug. 25, 1993; 60 FR 20247, Apr. 25, 1995]

§ 74.933 Remote control operation.

Licensed ITFS stations may be operated by remote control without further authority.

[52 FR 3806, Feb. 6, 1987]

§ 74.934 Unattended operation.

Unattended operation of licensed ITFS stations is permitted without further authority.

(a) An unattended relay station may be employed to receive and retransmit signals of another station provided that the transmitter is equipped with circuits which permit it to radiate only when the signal intended to be retransmitted is present at the receiver input terminals.

[52 FR 3806, Feb. 6, 1987]

§ 74.935 Power limitations.

(a) The maximum equivalent isotropically radiated power (EIRP) of a transmitter station in this service shall not exceed 2000 watts (33 dBW) except as provided in paragraph (b) of this section.

(b) If a station uses a transmitting antenna with a non-omnidirectional horizontal plane radiation pattern, the maximum equivalent isotropically radiated power (EIRP) in dBW in a given direction shall be determined by the following formula:

$$\text{EIRP} = 33 \text{ dBW} + 10 \log (360/\text{beamwidth}) \text{ [where } 10 \log (360/\text{beamwidth}) \leq 6 \text{ dB].}$$

Beamwidth is the total horizontal plane beamwidth of the transmitting antenna system in degrees, measured at the half-power points.

(c) An increase in station transmitter power, above currently-authorized or previously-proposed values, to the maximum values provided in paragraphs (a) and (b) of this section, may be authorized, if an applicant demonstrates that the requested power increase will not cause harmful interference to any authorized or previously-proposed co-channel or adjacent-channel station with a transmitter site within 80.5 km (50 miles) of the applicant's transmitter site, or if an applicant demonstrates that:

(1) A station, that must be protected from interference, potentially could suffer interference that would be elimi-

nated by increasing the power of the interfered-with station; and

(2) That the interfered-with station may increase its own power consistent with the rules; and

(3) The applicant requesting authorization of a power increase agrees to pay all expenses associated with the increase in power to the interfered-with station.

(d) For television transmission, the peak power of the accompanying aural signal must not exceed 10 percent of the peak visual power of the transmitter. The Commission may order a reduction in aural signal power to diminish the potential for harmful interference.

[55 FR 46013, Oct. 31, 1990, as amended at 58 FR 44951, Aug. 25, 1993]

§ 74.936 Emissions and bandwidth.

(a) An instructional television fixed station shall normally employ amplitude modulation (A5) for the transmission of the visual signal and frequency modulation (F3) for the transmission of the aural signal.

(b) On or after November 1, 1991, the maximum out-of-band power of a transmitter operating in this service shall be attenuated 38 dB relative to the peak visual carrier at the channel edges and constant slope attenuation from this level to 60 dB relative to the peak visual carrier at 1 MHz below the lower band edge and 0.5 MHz above the upper band edge. All out-of-band emissions extending beyond these frequencies shall be attenuated at least 60 dB below the peak visual carrier power. However, should interference occur as a result of emissions outside the assigned channel, additional attenuation may be required. A transmitter licensed prior to November 1, 1991, that remains at the station site initially licensed, and does not comply with this paragraph, may continue to be used for its life if it does not cause harmful interference to the operation of any other licensee. Any non-conforming transmitter replaced after November 1, 1991, shall be replaced by a transmitter meeting the requirements of this paragraph.

(c) The requirements of § 73.687(c)(2) of this chapter will be considered to be satisfied insofar as measurements of